

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
CESAR ANIBAL PEREZ-RIVERA,  
  
Defendant.

No. 13-CR-4004-DEO  
  
ORDER ACCEPTING REPORT  
AND RECOMMENDATION  
CONCERNING GUILTY PLEA

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**I. INTRODUCTION AND BACKGROUND**

Before the Court is Magistrate Judge Leonard T. Strand's Report and Recommendation Concerning Guilty Plea (Docket No. 18, 02/12/2013).

On January 23, 2013, a one count Indictment (Docket No. 1) was returned in the above-referenced case. On February 12, 2013, Defendant Cesar Anibal Perez-Rivera entered a guilty to plea to Count 1 before United States Magistrate Judge Leonard T. Strand.

Count 1 of the Indictment charges that on or about December 31, 2012, in the Northern District of Iowa, defendant Cesar Anibal Perez-Rivera, an alien citizen of Guatemala, was found knowingly and unlawfully in the United States after having been previously removed from the United States to Guatemala on or about June 21, 2012. Defendant did not obtain

the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Section 202(3) and (4) and Section 557), to reapply for admission into the United States prior to re-entering the United States after June 21, 2012, on an unknown date at an unknown location.

Defendant's removal was subsequent to a conviction for a felony offense, to wit:

On or about December 21, 2011, defendant was convicted of one count of illegal re-entry in the United States District Court for the Northern District of Iowa.

This was in violation of Title 8, United States Code, Section 1326(a) and 1326(b)(1).

The Report and Recommendation (Docket No. 18), states that there is no plea agreement and recommends that defendant Cesar Anibal Perez-Rivera's guilty plea be accepted. Waivers of objections to Judge Strand's Report and Recommendation were filed by each party (Docket Nos. 19 and 20). The Court, therefore, undertakes the necessary review to accept defendant Cesar Anibal Perez-Rivera's plea in this case.

## **II. ANALYSIS**

### **A. Standard of Review**

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

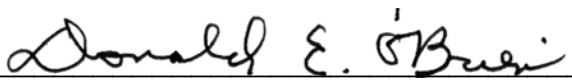
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

As mentioned, waivers of objections to the Report and Recommendation have been filed, and it appears to the Court upon review of Magistrate Judge Strand's findings and conclusions that there are no grounds to reject or modify them.

**IT IS THEREFORE HEREBY ORDERED** that this Court accepts Magistrate Judge Strand's Report and Recommendation (Docket No. 18), and accepts defendant Cesar Anibal Perez-Rivera's plea of guilty in this case to Count 1 Indictment (Docket No. 1).

**IT IS SO ORDERED** this 4<sup>th</sup> day of March, 2013.

  
Donald E. O'Brien, Senior Judge  
United States District Court  
Northern District of Iowa